

Subpart E. STATEMENTS OF POLICY

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CHAPTER 31. RIGHT-TO-KNOW LAW

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Authority

The provisions of this Chapter 31 issued under section 504(a) of the Right-to-Know Law (65 P. S. § 67.504(a)), unless otherwise noted.

Source

The provisions of this Chapter 31 adopted November 28, 2008, effective November 29, 2008, 38 Pa.B. 6502, unless otherwise noted.

Cross References

This chapter cited in 104 Pa. Code § 7.16 (relating to RTKL appeals).

Subchapter A. PRELIMINARY PROVISIONS

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§ 31.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Appeals officer—The individual responsible, under section 503(c)(1) of the law (65 P. S. § 67.503(c)(1)), for appeals from determinations of an open-records officer.

Bureau—The Legislative Reference Bureau.

Law—The Right-to-Know Law (65 P. S. §§ 67.101—67.3104).

Legislative agency—Any of the following:

- (i) The Senate.
- (ii) The House of Representatives.
- (iii) The Bureau.
- (iv) The Capitol Preservation Committee.
- (v) The Center for Rural Pennsylvania.
- (vi) The Joint Legislative Air and Water Pollution Control and Conservation Committee.
- (vii) The Joint State Government Commission.
- (viii) The Legislative Budget and Finance Committee.
- (ix) The Legislative Data Processing Committee.
- (x) The Independent Regulatory Review Commission.
- (xi) The Local Government Commission.
- (xii) The Pennsylvania Commission on Sentencing.
- (xiii) The Legislative Reapportionment Commission.
- (xiv) The Legislative Office for Research Liaison.
- (xv) The Legislative Audit Advisory Commission.

Legislative service agency record—A legislative record of a legislative service agency.

Legislative record—As defined in section 102 of the law (65 P. S. § 67.102).

Legislative service agency—A legislative agency other than the Senate or the House of Representatives.

Mass request—A number of requests under the law to which all of the following apply:

- (i) Each request is for the same legislative record.
- (ii) Each request is to the same legislative service agency.
- (iii) The number exceeds the daily average number of requests to the legislative service agency by at least 200%.
- (iv) The requests are substantially identical in format and language.
- (v) The open-records officer is able to trace the requests to a common source.

Nonadjudicative legislative service agency—A legislative service agency other than the Bureau or the Legislative Reapportionment Commission.

Office of Open Records—The Office of Open Records established in section 1310 of the law (65 P. S. § 67.1310).

Open-records officer—The individual responsible for access to the information of a legislative service agency under section 502(a)(2) of the law (65 P. S. § 67.502(a)(2)).

Requester—A person that makes a request for information from a legislative service agency under the law.

§ 31.2. Open-records officers.

(a) *Designation.*

(1) Under section 502(a)(2) of the law (65 P. S. § 67.502(a)(2)), the Bureau will coordinate with each nonadjudicative legislative service agency to do one of the following:

- (i) Accept the nonadjudicative legislative service agency's designation of the open-records officer.
- (ii) Designate the head of the nonadjudicative legislative service agency as the open-records officer.

(2) The designations under paragraph (1) are as follows:

- (i) The Bureau's designation is set forth in § 31.12 (relating to contact information).
- (ii) The Capitol Preservation Committee:

Open-Records Officer
Capitol Preservation Committee
Room 630, Main Capitol Building
Harrisburg, PA 17120
Fax: (717) 772-0742
E-mail: rtkrequest@cpc.state.pa.us

(iii) The Center for Rural Pennsylvania:

Open-Records Officer
The Center for Rural Pennsylvania
625 Forster Street, Room 902
Harrisburg, PA 17120
Fax: (717) 772-3587
E-mail: RTK@rural.palegislature.us

(iv) The Joint Legislative Air and Water Pollution Control and Conservation Committee:

Open-Records Officer
Joint Legislative Air and Water Pollution Control and Conservation
Committee
Room 408 Finance Building
House Box 202254
Harrisburg, PA 17120-2254
Fax: (717) 772-3836
E-mail: cbrooks@jcc.legis.state.pa.us

(v) The Joint State Government Commission:

Open-Records Officer
Joint State Government Commission
108 Finance Building
Harrisburg, PA 17120
Fax: (717) 783-9380
E-mail: jntst02@legis.state.pa.us

(vi) The Legislative Budget and Finance Committee:

Open-Records Officer
Legislative Budget and Finance Committee
400 Finance Building
P. O. Box 8737
Harrisburg, PA 17105-8737
Fax: (717) 787-5487
E-mail: openrecords@lbfc.legis.state.pa.us

(vii) The Legislative Data Processing Center:

Open-Records Officer
Legislative Data Processing Center
G-27 North Office Building
Harrisburg, PA 17120
Fax: (717) 772-1652
E-mail: ldpc@palegislature.us

- (viii) The Independent Regulatory Review Commission:
Open-Records Officer
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101
Fax: (717) 783-2664
E-mail: RTKofficer@irrc.state.pa.us
- (ix) The Local Government Commission:
Open-Records Officer
Local Government Commission
Senate Box 203078
Harrisburg, PA 17120-3078
Fax: (717) 772-4524
E-mail: LGCopenrecords@palegislature.us
- (x) The Pennsylvania Commission on Sentencing:
Open-Records Officer
Pennsylvania Commission on Sentencing
P. O. Box 1045
Harrisburg, PA 17108-1045
Fax: (717) 772-8892
- (xi) The Legislative Audit Advisory Commission:
Open-Records Officer
Legislative Audit Advisory Commission
211 Ryan Office Building
P. O. Box 202099
Harrisburg, PA 17120-2099
Fax: (717) 705-1986
E-mail: gdenling@pahousegop.com
- (3) The Legislative Reapportionment Commission:
Open-Records Officer
Legislative Data Processing Center
G-27 North Office Building
Harrisburg, PA 17120
Fax: (717) 772-1652
E-mail: lrc@redistricting.state.pa.us
- (4) The Independent Fiscal Office:
Open-Records Officer
Independent Fiscal Office
Second Floor, Rachel Carson Building
Harrisburg, PA 17105
Telephone: (717) 230-8293
E-mail: contact@ifo.state.pa.us

(b) *Notice.* As soon as possible after the designation under subsection (a)(2) and (3), the Bureau will publish the designations in the *Pennsylvania Bulletin*.

Source

The provisions of this § 31.2 amended September 2, 2011, effective September 3, 2011, 41 Pa.B. 4775; amended January 6, 2012, effective January 7, 2012, 42 Pa.B. 29; amended April 24, 2015, effective April 25, 2015, 45 Pa.B. 2051. Immediately preceding text appears at serial pages (360104) to (360107) and (340143).

Cross References

This section cited in 101 Pa. Code § 303.2 (relating to open-records officer); and 101 Pa. Code § 701.4 (relating to open-records officer).

§ 31.3. Cooperation.

The Bureau will assist nonadjudicative legislative service agencies with all of the following:

- (1) Request entries under section 502(b)(2)(i) of the law (65 P. S. § 67.502(b)(2)(i)).
- (2) Time periods under section 502(b)(2)(ii) of the law.
- (3) Interim responses under section 502(b)(1) of the law.
- (4) Final responses under section 502(b)(1) of the law.
- (5) Dispositions under section 502(b)(2)(iii) of the law.
- (6) Implementation of Subchapter C (relating to appellate procedure).

Subchapter B. OPEN RECORDS PROCEDURES OF THE BUREAU

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§ 31.11. Hours of access.

The Right-To-Know Office of the Bureau will be open from 8:45 a.m. to 4:45 p.m. Monday through Friday except for official State and Federal holidays and other days the Bureau is closed by direction of the Bureau Director. The Right-To-Know Office will not be open during other hours that the Legislative Reference Bureau is open for legislative session business.

§ 31.12. Contact information.

Right to Know requests must be sent to:
Open-Records Officer
Legislative Reference Bureau
Room 641, Main Capitol Building
Harrisburg, PA 17120-0033
Fax: (717) 783-2396
Email: lrbrighttoknow@palrb.net

Cross References

This section cited in 101 Pa. Code § 31.2 (relating to open-records officers).

§ 31.13. Request format.

Requests must be made in writing, must be clearly marked as a right-to-know request and must be submitted in person or by mail, email or facsimile in one of the following manners:

- (1) On a form prescribed by the Bureau.
- (2) In a manner so that material requested describes records requested with specificity.

§ 31.14. Referral.

- (a) *Scope.* The Bureau will forward a request for a legislative service agency record not generated by the Bureau to the appropriate legislative service agency.
- (b) *Status.* Forwarding a request under subsection (a) does not constitute a deemed denial under section 901 of the law (65 P. S. § 67.901).

§ 31.15. Processing.

Subject to § 31.16 (relating to mass requests), the Bureau will process a request for any of the following legislative service agency records generated by the Bureau:

- (1) A financial record.
- (2) A bill or resolution that has been introduced, including resolutions to adopt or amend the rules of a chamber.
- (3) The minutes of, record of attendance of members at and all recorded votes taken in a meeting of the Joint Committee on Documents.
- (4) The transcript of a public hearing when available.
- (5) Any administrative staff manuals or written policies.
- (6) Final or annual reports required by law to be submitted to the General Assembly.
- (7) A record communicating to the appointing authority the resignation of a legislative appointee.
- (8) Proposed regulations, final-form regulations and final-omitted regulations submitted to a legislative agency. This paragraph is subject to 45 Pa.C.S.

§ 722(b) (relating to deposit of documents required) and 1 Pa. Code § 13.55 (relating to filing for public inspection).

§ 31.16. Mass requests.

If the open-records officer determines that a mass request places an unreasonable burden on the Bureau, in an analogous manner to that described in section 506(a)(1) of the law (65 P. S. § 67.506(a)(1)) for multiple requests by the same requester, the following apply:

- (1) The open-records officer will respond to the common source identified by the open-records officer; respond to individual requests submitted in writing; and, if the request is granted, will make the legislative record accessible at the Bureau.
- (2) If the mass request is in electronic format, each requester will be informed of the action under paragraph (1).

Cross References

This section cited in 101 Pa. Code § 31.15 (relating to processing); and in 101 Pa. Code § 431.22 (relating to practice and procedure).

§ 31.17. Fee schedule.

- (a) *General rule.* Except as set forth in subsection (b), the following apply:
 - (1) The fee for providing a document is \$.25 per page.
 - (2) The fee for postage will not exceed actual mailing costs.
 - (3) The fee for certifying a document is \$5 per document, regardless of the number of pages. Each document requires separate certification and fee.
 - (4) The fee for redaction of a document is \$1 per page.
- (b) *Exception.* If the Office of Open Records charges a fee for providing a document of less than the amount set forth in subsection (a), the Bureau will charge the fee charged by the Office of Open Records.
- (c) *Payment.*
 - (1) In accordance with paragraphs (2) and (3), payment arrangements shall be made between the requester and the open-records officer.
 - (2) If the actual fee is expected to exceed \$100, payment of an estimated fee under section 1307(h) of the law (65 P. S. § 67.1307(h)) shall be made prior to the initiation of providing the document. If payment under this paragraph is required, a check, certified check or money order shall be made payable to "Commonwealth of Pennsylvania" in the amount of the estimated fee.
 - (3) Payment of the actual fee shall be made prior to providing the document.

Source

The provisions of this § 31.17 amended January 4, 2013, effective January 5, 2013, 43 Pa.B. 17. Immediately preceding text appears at serial page (340145).

Subchapter C. APPELLATE PROCEDURE

- Sec.
31.21. Administrative Agency Law.
31.22. Appeals officer.
31.23. Parties.

Cross References

This subchapter cited in 101 Pa. Code § 31.3 (relating to cooperation); and 101 Pa. Code § 303.22 (relating to practice and procedure).

§ 31.21. Administrative Agency Law.

(a) *Authority.* This section constitutes the adoption of practice and procedure provisions under section 1309 of the law (65 P. S. § 67.1309).

(b) *Adoption.*

(1) Except as set forth in subsection (c), the provisions of 2 Pa.C.S. Chapter 5, Subchapter A and Chapter 7, Subchapter A (relating to Administrative Agency Law) apply to appeals under this subchapter.

(2) This subsection applies notwithstanding 2 Pa.C.S. § 501(a) (relating to scope of subchapter).

(c) *Exceptions.*

(1) Testimony will be recorded, and a transcript will only be produced if there is an appeal under section 1301(a) of the law (65 P. S. § 67.1301(a)). This paragraph applies notwithstanding 2 Pa.C.S. § 504 (relating to hearing and record).

(2) The provisions of 2 Pa.C.S. § 508 (relating to notice to Department of Justice) do not apply.

§ 31.22. Appeals officer.

(a) *Status.* Under section 503(c)(1) of the law (65 P. S. § 67.503(c)(1)), the following apply:

(1) Except as set forth in paragraph (2), the Bureau will provide appeals officers for appeals from all legislative service agencies.

(2) For an appeal from a denial by the open-records officer of the Bureau, the Bureau will arrange with a nonadjudicative legislative service agency to provide an appeals officer.

(b) *Requirements.*

(1) The appeals officer must be an attorney at law.

(2) Except as set forth in paragraph (3), the appeals officer may be an employee of or an individual under contract with one of the following:

(i) The Bureau for an appeal under subsection (a)(1).

(ii) The nonadjudicative legislative agency for an appeal under subsection (a)(2).

(3) The appeals officer will be an individual under contract with the Bureau for an appeal from a denial by the open-records officer of the Legislative Reapportionment Commission.

§ 31.23. Parties.

(a) *Original.*

(1) Under section 1101(a)(1) of the law (65 P. S. § 67.1101(a)(1)), an appeal may be made by a requester with respect to any of the following:

- (i) A request denied under section 903 of the law (65 P. S. § 67.903).
- (ii) A request deemed denied under section 901 of the law (65 P. S. § 67.901).

(2) Under section 1101(c) of the law, a party with a direct interest in the information subject to the appeal may intervene in the appeal.

(b) *Procedure.*

(1) A party under subsection (a) must file two copies of the appeal or petition to intervene with the Bureau. The copies must be in writing. Electronic filing is not permitted. For an appeal under subsection (a)(1)(i), the appeal or petition must refer to any disputed factual or legal matter in the denial under section 903 of the law.

(2) Upon receipt of the filing under paragraph (1), the Bureau will send a copy to the open-records officer whose denial or deemed denial is being appealed.

(3) The appeals officer may schedule an informal conference with the parties to attempt to resolve the matter.

(c) *Submission on documents.* Except as set forth in subsection (d), the appeal will be resolved under section 1102(b)(1) of the law (65 P. S. § 67.1102(b)(1)), based on the following:

- (1) The appeal under section 1101(a)(1) of the law.
- (2) The denial under section 903 of the law.

(d) *Hearing.*

(1) A hearing will be held on an appeal if the appeals officer determines that there is good cause for a hearing.

(2) Under section 1102(b)(2) of the law, a hearing is subject to 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(e) *Determination.* Under section 1102(a)(4) of the law, the appeals officer will issue a final determination. The final determination will consist of the following:

- (1) *Title.* Identification of the requester and the legislative agency.
- (2) *Procedural history.*
 - (i) *Recital.* A brief recital of the facts up to disposition by the open-records officer.
 - (ii) *The disposition by the open-records officer.* This subparagraph includes a denial under section 903 of the law and a deemed denial under section 901 of the law.
- (3) *Factual findings.* Resolution of disputed facts.
- (4) *Legal conclusions.* Includes cited authority.
- (5) *Order.* An order affirming the denial or granting the request, in whole or in part. An order under this paragraph is subject to judicial review under Chapter 13 of the law (65 P. S. §§ 67.1301—67.1310).

Source

The provisions of this § 31.23 amended December 18, 2015, effective December 19, 2015, 45 Pa.B. 7174. Immediately preceding text appears at serial pages (376666) to (376668).

[Next page is 101-1.]